

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

TEXTRON FINANCIAL CORPORATION,))	
)	
Plaintiff,)	
)	No. 2:12-CV-04164-NKL
v.)	
)	
BENTON HOMES, INC., et al.,)	
)	
Defendants.)	

PARTIAL CONSENT JUDGMENT AND ORDER OF DISMISSAL

Pending before the Court is Plaintiff Textron Financial Corporation (“Textron”)’s motion for summary judgment against Defendants Benton Homes, Inc., Larry Benton, Cecilia Benton, and Central Bank of Missouri (“Central Bank”) [Doc. # 21]. Textron and Benton Homes have reached a resolution concerning the issues between them, and jointly move for partial consent judgment against Benton Homes [Doc. # 34]. In addition, Textron has filed a stipulation of voluntary dismissal, without prejudice, of all of its claims against Central Bank, Larry Benton, and Cecilia Benton [Doc. # 38].

Textron’s Complaint asserts two claims against Benton homes for breach of contract and replevin. [Doc. # 1 at 8, 13]. Textron and Benton Homes agree that Benton Homes’ breach of the Wholesale Security Agreement and Settlement Agreement caused Textron at least \$364,514.00 in damages, plus interest accruing thereon from April 1, 2012, at a rate of 12 percent per annum. [Doc. # 3 at 1].

Textron's replevin claim seeks to recover all of the Collateral of Benton Homes, as that term is defined in the parties' Wholesale Security Agreement. In the motion for partial consent judgment, Textron requests a judgment awarding Textron immediate possession of two homes it financed for Benton Homes. Benton Homes consents to a judgment in favor of Textron concerning these homes. A question remains, however, regarding whether Textron or Central Bank is entitled to the remaining Collateral possessed by Benton Homes. As such, Textron seeks only partial judgment on the replevin claim, which would award Textron only the two homes referenced below. [Doc. # 34 at 1-2].

The Court, having reviewed the pleadings and all other evidence before it, and being fully advised of the premises, finds good cause to enter the following relief. Textron's motion for summary judgment [Doc. # 21] is GRANTED in part. Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Judgment is entered in favor of Textron Financial Corporation and against Benton Homes, Inc., in the amount of Three Hundred Sixty-Four Thousand Five Hundred Fourteen Dollars and No Cents (\$364,514.00), plus interest accruing thereon from April 1, 2012, at a rate of 12% per annum, with costs to be taxed against Benton Homes, Inc.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Textron Financial Corporation is entitled to immediate possession of the following manufactured homes financed by Textron Financial Corporation for Benton Homes, Inc.:

<u>Supplier</u>	<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Model Number</u>	<u>Serial Number</u>	<u>Financed Amount</u>
Fuqua Homes, Inc.	19796-0	8/4/2006	54X30	1810	\$76,371.00
Fuqua Homes, Inc.	20035-1	12/15/2006	57X30	1850	\$95,540.00

IT IS FURTHER ORDERED that Textron Financial Corporation's claims against Defendants Larry Benton, Cecilia Benton, and Central Bank of Missouri are DISMISSED without prejudice. The parties will bear their own attorneys' fees and costs. Textron Financial Corporation's claim against Brett Benton [Doc. # 1 at 12] remains STAYED pursuant to the automatic stay of 11 U.S.C. § 362, as previously ordered. [Doc. # 32].

Dated: January 11, 2013
Jefferson City, Missouri

s/ NANETTE K. LAUGHREY
NANETTE K. LAUGHREY
United States District Judge

CONSENTED AND AGREED TO:

/s/ Jill M. Johnson

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